

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE: Bair Hugger Forced Air Warming
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

THIS DOCUMENT RELATES TO:

Rhonda Morgan (0:17-cv-01441-JNE-FLN)

PLAINTIFF’S OPPOSITION TO DEFENDANTS’ MOTION TO DISMISS

COMES NOW Plaintiff for the above-captioned action to hereby opposes the motion to dismiss of Defendants 3M Company and Arizant Healthcare, Inc. (“Defendants” collectively). The motion to dismiss and accompanying brief in support are Docs. 1019 and 1020 (“Motion” collectively).

Defendants have asked the Court to dismiss these actions with prejudice for failure to comply with the Court’s Pretrial Order No. 14 (“PTO 14”), which requires a plaintiff to serve a completed and signed Plaintiff Fact Sheet (“PFS”), medical authorization, and supporting documents.

PLAINTIFF’S ACTION SHOULD NOT BE DISMISSED WITH PREJUDICE

Plaintiff has yet to return the documents set forth by this Court’s PTO 14. Plaintiff is aware of the obligations regarding completing and serving PFS, medical authorization, and supporting documents, pursuant to PTO 14. However, to be precise, the undersigned counsel is without any knowledge of circumstances that may preclude Plaintiff from responding to the counsel’s contact attempts and efforts or completing the

Court mandated PFS and medical authorization. The undersigned counsel attempted to reach Plaintiff numerous times including but not limited to the following:

- May 9, 2017 – Mailed PFS and medical authorization;
- May 17, 2017 – Left a voicemail and sent an email t;
- June 29, 2017 – Left a voicemail;
- July 26, 2017 – Left a voicemail, sent a letter to contact the undersigned upon receipt and return of PFS;
- August 22, 2017 – Left a voicemail and sent an email;
- September 5, 2017 – Sent an email;
- September 10, 2017 – Searched for alternative contact information;
- September 13, 2017 – Left a voicemail, sent a letter to contact the undersigned upon receipt and return of PFS;
- October 13, 2017 – Left a voicemail;
- November 9, 2017 – Left a voicemail;
- November 20, 2017 – Sent a letter to contact the undersigned upon receipt and return of PFS;
- December 7, 2017 – Left a voicemail and sent a letter informing Ms. Morgan that Defendants have filed a motion to dismiss her action for failure to comply with PTO 14.

In light of the foregoing, the undersigned counsel respectfully seeks a 120-day extension on PTO 14. Nevertheless, if the Court deems dismissal of Plaintiff's action to be proper, then they should be dismissed without prejudice granting an opportunity for

Plaintiff to reinstate her action.

DATED: December 14, 2017

Respectfully submitted,

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